

Human Rights Law
LAW-UH 2124, 4 credits, Fall 2018
Cross-listed as POLSC-AD 2124
Pre-requisites/Co-requisites: None

Professor Barry Hashimoto
bh84@nyu.edu +971 56 913 3553

Tues/Thurs at 9:00—10:15 AM in A5-004
Office Hours: Mon/Wed at 4:15—5:30 PM in Social Sciences in A5 113.

Course Description

This course analyzes the legal foundations, global politics and history of the conception, protection, and violation of human rights law. It presents analytical frameworks, concepts, facts, legal theories, and empirical methods used in the study of the politics of human rights law. The course examines how the formulation and protection of human rights are influenced by political and religious institutions, resources, war, international law and courts, the foreign policies of great powers, and civil society. Perspectives from the disciplines of law, political science, economics, and history are covered.

Learning Outcomes

1. Identify and describe the actors, interests, interactions, institutions, law and history central to the twentieth-century law, practice, and politics of human rights around the world.
2. Explain how democracy, democratization, international law and institutions, the activities of powerful democracies, and global civil society influence the provision, protection, and violation of human rights.
3. Understand human rights outcomes in different regions of the world, at different points in history.
4. Critically assess the theoretical and empirical research on human rights from disciplines of law and the social sciences.
5. Create and discuss original analyses and interpretations of the law, politics, and social science of human rights, both in writing and orally.

Textbook

This course uses two required texts and one recommended text. These are in addition to required readings to be made available on NYU Classes.

Required texts (hereafter abbreviated as **MSS** and **Simmons**):

1. Moeckli, Daniel, Sangeeta Shah, and Sandesh Sivakumaran. 2014. *International Human Rights Law*. Oxford, U.K.: Oxford University Press.
2. Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge, U.K.: Cambridge University Press.

Recommended text: Morsink, Johannes. 1999. *The Universal Declaration of Human Rights: Origins, Drafting and Intent*. Philadelphia, PA: University of Pennsylvania Press.

Teaching and Learning Methodology

The teaching methodology of this course is to combine lectures, seminars, and research-intensive assignments to engage students with scholarly work by lawyers and social scientists on the history, law, and politics of making and enforcing international human rights law. No single textbook on human rights covers enough of the exciting new knowledge on these topics, so the required reading list has one textbook, two monographs, and many journal articles. The background question these readings all address is, “How do we seek to protect human rights, and when do we succeed or fail in doing so?” Lectures will be used to introduce background facts and methods of study, and to situate course readings in the rest of the literature. Seminars will be used to create a setting where students will prepare for and actively participate in a structured, critical analysis of the reading assignments. Students will be required to demonstrate these skills by presenting several readings throughout the semester in class. Students will also be required to write a literature review on one topic covered in the course to gain experience in independently approaching a significant, and focused question by identifying and synthesizing knowledge from primary and secondary sources.

Evaluation

1. **Writing Assignment:** 35% of the total course grade. Students will write a 15-page paper due around the eleventh week of the course in which they conduct a critical literature review of one topic of the syllabus, using the required readings for that topic as a starting point for a deeper engagement with secondary and primary sources, including judicial opinions, the commentaries on human rights of United Nations bodies and non-governmental organizations, legal scholarship, and scholarship from the social sciences. The papers will provide students with the opportunity for reflection on parts of the course that are particularly interesting to them and give them practice in synthesizing and producing original scholarship. The broad research question in each student’s literature review will be, “What should we know, what do we know, what don’t we know about the chosen topic?”
2. **Presentations:** 35% of the total course grade. To stimulate a productive and interactive classroom discussion of the course material, students will be formally assigned to become experts on particular required readings with the capacity to describe and analyze those readings in detail as classroom discussion leaders. Roughly 10 small teams of students will be formed. Each team will be responsible for two 25-minute presentations during the semester. Teams may choose to prepare a brief set of slides giving the organization of their presentation and any important visual materials from the reading. A grading rubric will be posted focusing on three components: (i) Accuracy, clarity, and precision; (ii) organization, scholarship, and punctuality; and (iii) originality.
3. **Examination:** 20% of the total course grade. There will be a written final examination during the scheduled final examination period testing understanding, interpretation, analysis, and critical thinking based on a selection of readings from the list of required and recommended texts.
4. **Participation:** 10%: of the total course grade. This grade will be based on the instructor’s evaluation of each student’s record of *punctual attendance* in class

meetings (60% of the participation grade), and *etiquette* in the classroom toward other students and the instructor (40% of the participation grade).

Students will receive feedback on their participation at mid-semester.

The *punctual attendance* component of the grade will reflect the percent of classes that a student attends in full, arriving prior to the start of the day's activities. Barring exceptional circumstances such as a family emergency or serious illness, however, a student who misses six regular class meetings for any reason will receive no credit for the punctual attendance component of the participation grade.

Students will maximize the *etiquette component* of their participation grades by:

1. treating all members of the class with an attitude of attention and respect,
2. asking high-quality questions and making high-quality remarks in *moderate quantity* that demonstrate that students have finishing the required readings on time,
3. avoiding the use of cellphones, distracting electronics, and cross-talk during class meetings.

Grading scale

A: 93%-100%	B: 83%-86.9%	C: 73%-76.9%	D: 60%-66.9%
A-: 90%-92.9%	B-: 80%-82.9%	C-: 70%-72.9%	F: < 59.9%
B+: 87%-89.9%	C+: 77%-79.9%	D+: 67%-69.9%	

Course Policies

- Email: I will usually answer your emails within 24 hours, but please do not leave important questions to the last minute.
- Laptops: the use of laptops in class requires permission from the instructor and a pledge that such use will not be abused.
- Late submissions: work turned-in past their deadlines will be penalized by six percentage points every 12 hours.

Academic integrity

You are expected to adhere to the highest standards of scholarship and academic integrity. Violations of NYU AD's policy on these matters may subject you to review and the imposition of penalties in accordance with NYU AD's procedures. Please read thoroughly and understand NYU Abu Dhabi's statement on academic integrity, and contact me if you have any questions as you complete your assignments.

<https://students.nyuad.nyu.edu/campus-life/student-policies/community-standards-policies/academic-integrity/>.

Weekly course schedule with required readings

Readings are indicated as either *required* or as *recommended*. Students are encouraged to read at least one text per week drawn from the *recommended* readings, although doing so is optional. *Required* journal articles will be linked to in NYU Classes. The schedule below is subject to adjustment based on the content and length of classroom discussions.

Week 1. History, law, justifications, and critiques of human rights

Required:

- Simmons, Chapters 1-2, pp. 1-55.
- MSS, "Justifications," Chapter 2, pp. 22-40.
- MSS, "Critiques," Chapter 3, pp. 41-62.

Recommended:

- MSS, "History," Chapter 1, pp. 3-21.
- Morsink, Johannes. 1999. *The Universal Declaration of Human Rights: Origins, Drafting and Intent*. Philadelphia, PA: University of Pennsylvania Press, Chapter 8 and Appendix: pp. 281-328.
- Henkin, Louis. 1995. "U.S. Ratification of Human Rights Conventions: The Ghost of Senator Bricker." *American Journal of International Law* 89:2, 341-350.
- McCrudden, Christopher. 2008. "Human Dignity and Judicial Interpretation of Human Rights." *European Journal of International Law* 19:4, 655-724.

Week 2. Types of rights violations in the twentieth century

Required:

- MSS, "Categories of rights," Chapter 7, pp. 135-147.
- Hill, Daniel W. and Zachary M. Jones, "An Empirical Evaluation of Explanations for State Repression," *American Political Science Review* 108(3): 661-687.

Recommended:

- Morsink, Johannes. 1999. *The Universal Declaration of Human Rights: Origins, Drafting and Intent*. Philadelphia, PA: University of Pennsylvania Press, Chapters 1-2, pp. 1-91.
- Extracurricular documentary viewing: *Scream Bloody Murder* with Christine Amanpour. CBS *60 Minutes*.

Week 3. Analytical tools for studying human rights law and repression

Required:

- Chilton, Adam and Dustin Tingley. 2013. "Why the Study of International Law Needs Experiments." *Columbia Journal of Transnational Law* 52, 173-236.

- Fariss, Christopher J. 2014. “Respect for Human Rights has Improved Over Time: Modeling the Changing Standard of Accountability.” *American Political Science Review* 108(2): pp. 297-318.

Recommended:

- Aghion, Philippe and Peter Howitt,. 2009. *The Economics of Growth*. MIT Press, Cambridge, MA, Appendix pp. 443-456.

Week 4. Democracy and human rights

Required:

- North, Douglass C., and Weingast, Barry. 1989. Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England. *The Journal of Economic History*, 49(4): 803-832.
- Lupu, Yonatan, 2015. “Legislative Veto Players and the Effects of International Human Rights Agreements,” *American Political Science Review* 59(3), 578-594.

Recommended:

- Haggard, Stephen and Kaufman, Robert R. 2012. Inequality and Regime Change: Democratic Transitions and the Stability of Democratic Rule. *American Political Science Review*, 106: 495-516.
- Moustafa, Tamir. 2003. “Law versus the State: The Judicialization of Politics in Egypt.” *Law & Social Inquiry* 28:4, 883-930.

Week 5. Democracy and human rights

Required:

- Bueno de Mesquita, Bruce, George W. Downs and Alastair Smith, 2005, “Thinking Inside the Box: A Closer Look at Democracy and Human Rights,” *International Studies Quarterly* 49, 439-452.
- Chilton, Adam S. and Mila Versteeg, 2015, “Do Constitutional Rights Make a Difference?” *American Journal of Political Science*, 60(3), pp. 575-589.

Recommended:

- Cingranelli, David, and Mikhail Filippov. 2010. “Electoral Rules and Incentives to Protect Human Rights.” *Journal of Politics* 72(1): 243-257.
- Powell, Emilia Justyna and Jeffrey S. Staton. 2009. “Domestic Judicial Institutions and Human Rights Treaty Violation.” *International Studies Quarterly* 53:1, 149-174.

Week 6. Domestic politics and human rights in non-democracies

Required:

- Ross, Michael. 2008. Oil, Islam and Women. *American Political Science Review*, 102(1): 1-18.
- Moustafa, Tamir. 2013. "Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia." *Law & Social Inquiry* 38(1): 168-188.

Recommended:

- Magaloni, Beatriz, and Kricheli, Ruth. 2010. Political Order and One-Party Rule. *Annual Review of Political Science*, 13: 123-43.

Week 7. Domestic bureaucracy, demography and human rights

Required:

- Nordås, Ragnhild, and Christian Davenport. 2013. "Fight the Youth: Youth Bulges and State Repression." *American Journal of Political Science* 57(4): 926-940.
- Butler, Christopher K., Tali Gluch, and Neil Mitchell. 2007. "Security Forces and Sexual Violence: A Cross-National Analysis of a Principal-Agent Argument." *Journal of Peace Research* 44 (6): 669-687.

Recommended:

- Gailmard, Sean and John Patty. 2012. "Formal Models of Bureaucracy." *Annual Review of Political Science* 15:353-377.

Week 8. Sources, obligation and application of international human rights law

Required:

- MSS, "Sources," Chapter 4, pp. 63-85.
- MSS, "Nature of obligations," Chapter 5, pp. 86-109.
- MSS, "Scope of application," Chapter 6, pp. 110-134.

Week 9. Core rights of international human rights law

Required:

- MSS, "Equality and non-discrimination," Chapter 8, pp. 148-164.
- MSS, "Integrity of the person," Chapter 9, pp. 165-185.

Recommended:

- Morsink, Johannes. 1999. *The Universal Declaration of Human Rights: Origins, Drafting and Intent*. Philadelphia, PA: University of Pennsylvania Press, Chapter 3, 92-139.

Week 10. Core rights of international human rights law

Required:

- MSS, "Adequate standard of living," Chapter 10, pp. 186-207.
- MSS, "Detention and trial," Chapter 13, pp. 252-277.
- MSS, "Thought, expression, association and assembly," Chapter 11, pp. 208-231.

Recommended:

- MSS, "Women's rights," Chapter 16, pp. 309-325.

Week 11. International organizations and the enforcement of international human rights law

Required:

- MSS, "The United Nations," Chapter 18, pp. 369-410.
- MSS, "International Criminal Law," Chapter 26, pp. 521-538.

Recommended:

- Hafner-Burton, Emilie M. and Tsutsui, Kiyoteru. 2005. "Human Rights in a Globalizing World: The Paradox of Empty Promises." *American Journal of Sociology* 110:5, 1373-1411.
- Checkel, Jeffrey T. 2001. "Why Comply? Social Learning and European Identity Change." *International Organization* 55:3, 553-588.
- Chayes, Abraham and Antonia Handler Chayes. 1993. "On Compliance." *International Organization* 47:2, 175-205.

Week 12. Domestic enforcement of international human rights law

Required:

- Simmons, "Theories of Commitment," pp. 57-111.
- Simmons, "Theories of Compliance," pp. 112-158.
- Simmons, "Conclusion" sections to empirical chapters, in pp. 198-201, 253-255, 304-306, and 345-348.

Recommended:

- Simmons, remainder of the text.

Week 13. Democratic foreign policy and human rights: humanitarian intervention with case studies of Kosovo and Syria

Required:

- Simma, Bruno. 1999. "NATO, the UN and the Use of Force: Legal Aspects." *European Journal of International Law*. 10:1, 1-22.
- Koh, Harold H. 2016. "Address: The War Powers and Humanitarian Intervention." *Houston Law Review* 53:4, pp. 971-1033.

Recommended:

- Cassese, Antonio. 1999. "Ex iniuria ius oritur: Are We Moving Towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community?" *European Journal of International Law* 10:1, 23-30.
- Rodley, Nigel S. 1989. "Human Rights and Humanitarian Intervention: The Case Law of the World Court." *International and Comparative Law Review* 38:2, pp. 321-333.

Week 14: Democratic foreign policy and human rights: international political economy

- Greenhill, Brian, Layna Mosley, and Aseem Prakash. 2009. "Trade-Based Diffusion of Labor Rights: A Panel Study, 1986-2002." *American Political Science Review* 103 (4): 669-690.
- Nielsen, Richard A. and Beth A. Simmons. 2015. "Rewards for Ratification: Payoffs for Participating in the International Human Rights Regime?" *International Studies Quarterly* 59:2, 197-208.

Recommended:

- Hafner-Burton, Emilie M. 2008. "Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem." *International Organization* 62:4, 689-716.
- Brysk, Alison and Aashih Mehta. 2014. "Do Rights at Home Boost Rights Abroad? Sexual Equality and Humanitarian Foreign Policy." *Journal of Peace Research* 51(1), pp. 97-110.